THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26911 OF 2007

Date: 24.12.2007

Between:

M/s.Venkateswara Granites

. . .Petitioner

AND

The Government of Andhra Pradesh and others

. . .Respondents

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.26911 OF 2007

ORDER:

This writ petition is filed for a writ of mandamus to declare the action of the respondents in not considering representation, dated 06.09.2007 submitted along with documents for processing application, dated 18.12.2003 for grant of prior approval of Compartment No.209 of Ragimanupenta Reserve Forest of Chittoor West Division, Chittoor District for grant of quarry lease for Black Granite over an extent of 5.000 hectares in compliance of notice, dated 01.08.2007 received by the petitioner on 16.08.2007 as arbitrary and illegal.

In the affidavit filed in support of the writ petition, it is averred that the petitioner submitted application on 18.12.2003 for prior approval under Section 2 of the Forest Conservation Act, 1980 for grant of quarry lease for black granite over an extent of five hectares in Compartment No.209 of Ragimanupenta Reserve Forest of Chittoor West Division, Chittoor District. The competent authority having received the said application issued proceedings, dated 05.01.2007, wherein the petitioner was required to furnish compensatory aforestation land particulars and surveyed sketch for taking necessary action on or before 12.01.2007. It is further averred that by letter, dated 13.07.2007, the petitioner requested thirty days time for submission of the same. While so, according to the petitioner, it received notice through respondent No.2 on 16.08.2007, wherein it was asked to submit the particulars regarding compensatory aforestation land along with sketch by 16.08.2007 and failing which, the file will be closed. However, the petitioner claimed to have made representation on

06.09.2007 to receive the proposal and the same was received by respondent No.2 on 19.09.2007. The grievance of the petitioner is that without passing orders on its representation, the respondents are seeking to allot this land to third parties.

At the hearing, Smt. N.Shoba, learned counsel for the petitioner submitted that the action of the respondents in seeking to close the file on the ground that the petitioner failed to submit its proposals on or before 16.08.2007 is ex facie arbitrary. According to her, the petitioner received notice, dated 01.08.2007 only on 16.08.2007 and, therefore, it could not comply with the requirement of sending the proposals before 16.08.2007. Learned counsel for the petitioner placed a copy of the registered cover sent from the office of Principal Chief Conservator of Forests, which prima facie shows that the cover was received on 16.08.2007.

Sri S.V.Bhatt, learned counsel appearing for the impleaded respondent fairly submitted that to the extent of the prayer of the petitioner to consider representation, dated 06.09.2007 along with which the details for compensatory aforestation were submitted, his client has no objection for allowing the same. But he submits that the petitioner had been seeking prior approval only in respect of Compartment No.200 and that it is now making efforts to seek such approval in respect of Compartment No.209, for which his client has objection.

Learned Assistant Government Pleader for Forests says that since notice, dated 01.08.2007 was evidently, received by the petitioner only on 16.08.2007, the petitioner's representation and proposals submitted on 06.09.2007 may be directed to be considered.

Having regard to the respective submissions of the learned counsel, I propose to dispose of the writ petition without going into the issue whether the petitioner's application was originally made available for Compartment No.209 or not, as I am of the view that this dispute, which falls in the realm of a disputed fact, is required to be considered and decided only by respondent No.2 – Principal Chief Conservator, Department of Forests, Hyderabad.

Therefore, the writ petition is disposed of with the following directions:

1. Respondent No.2 shall receive and consider the proposals submitted by the petitioner in reply to notice, dated 01.08.2007 sent by him.

2. Respondent No.2 shall give an opportunity of personal hearing to the petitioner and the impleaded respondent and decide on the proposal submitted by the petitioner, within a period of four weeks after completion of hearing of the parties.

As a sequel to disposal of the writ petition, WPMP No.35155 of 2007 is disposed of as infructuous.

C.V.NAGARJUNA REDDY, J

24th DECEMBER, 2007

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